

REMARKS

Applicant respectfully requests reconsideration. Claims 1-4 and 6-54 were previously pending in this application. Claims 13, 19, 20, 22, 37 and 47-49 stand withdrawn. By this amendment, claim 7 is cancelled without prejudice or disclaimer. Claim 1 is amended. Support for the amendment can be found at least in claim 7 as originally filed. New claim 55 is added. Support for the new claim can be found at least in claim 27 as originally filed. As a result, claims 1-4, 6, 8-12, 14-18, 21, 23-36, 38-46 and 50-55 are pending for examination with claims 1 and 55 being independent claims. No new matter has been added.

Rejection under 35 U.S.C. §102

Claims 1-4, 6, 9-11, 18, 21, 23, 28, 39 and 53 are rejected under 35 U.S.C. §102(e) as being anticipated by Taylor et al. (US Patent Application No. 2003/0082538). According to the Examiner, Taylor et al. teaches the claimed invention.

Without conceding the Examiner's position and merely in the interest of expediting prosecution, Applicant has amended claim 1 to include the limitation "wherein the polymers are labeled with a sequence specific probe". This limitation was originally found in claim 7 (now cancelled), which was not rejected in view of Taylor et al.

Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1-4, 6-12, 14, 16-18, 21, 23-24, 26, 44-46 and 50-52 are rejected under 35 U.S.C. §102(b) as being anticipated by Chan (WO 98/35012). According to the Examiner, Chan teaches all the elements of the claimed invention (pages 5-7 of the Office Action of May 15, 2007).

Applicant respectfully traverses. Chan does not anticipate the claimed invention because Chan does not teach all the limitations of the claimed invention. In particular, Chan at least does not teach the following steps of independent claim 1:

"selecting a peak in the sample population profile and obtaining individual intensity profiles that contribute to the peak,

combining individual intensity profiles that contribute to the peak to generate a peak profile, and,

comparing the peak profile with the sample population profile ...”

The Examiner refers to numerous passages in Chan to support the statement that Chan anticipates the claimed invention. However, none of these passages teaches at least the steps recited above. In particular, the Examiner states that Chan discusses “the method in which the signature of signals of a plurality of polymers, reading on the combined, aligned individual profiles that constitute a generated sample profile, are compared to the test profile, reading on a peak profile” and cites page 16, lines 12-15, and page 17, lines 2-7 in support of this position. However, the cited passages actually read:

“The method involves the steps of comparing the signature of signals of the plurality of polymers, determining the relatedness of the polymers based upon similarities between the signature of signals of the polymers, and characterizing the test polymer based upon the signature of signals of related polymers.” (page 16, lines 12-15)

“A method for characterizing a test polymer is another aspect of the invention. A method for characterizing a test polymer is carried out by obtaining polymer dependent impulses for each of a plurality of polymers, comparing the polymer dependent impulses of the plurality of polymers, determining the relatedness of the polymers based upon similarities between the polymer dependent impulses of the polymers, and characterizing the test polymer based upon the polymer dependent impulses of related polymers.” (page 17, lines 2-7)

These passages do not disclose “selecting a peak in the sample population profile and obtaining individual intensity profiles that contribute to the peak”, nor do they disclose “combining individual intensity profiles that contribute to the peak to generate a peak profile, and comparing the peak profile with the sample population profile.” Thus, Chan does not teach all the elements of the claimed invention and it therefore cannot anticipate the claimed invention.

Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Allowable Subject Matter

Claims 25, 27, 29-36, 38, 40-43, and 54 are objected to as being dependent upon a rejected base claim. The Examiner indicated that the claims would be allowable if rewritten in independent form.

Applicant has rewritten the subject matter claimed in dependent claim 27 as independent claim 55. Applicant reserves the right to rewrite the remaining objected claims into independent format, thereby rendering these claims allowable.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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